IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 3717 of 2006
With
CIVIL APPLICATION No. 11268 of 2006
In FIRST APPEAL No. 3717 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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TRANSPORT MANAGER - Appellant(s)
Versus
ISHWARBHAI SOMABHAI CHAWADA - Defendant(s)

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Appearance :
MR HS MUNSHAW for Appellant(s) : 1,
MR ANAND L SHARMA for Defendant(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 16/04/2007

ORAL JUDGMENT

Present appeal has been filed by the appellant, original opponent under section 30 of the Workmen Compensation Act challenging the judgment and order passed by the learned Commissioner under the provisions of Workmen Compensation Act, Ahmedabad

passed on 31-12-2005 in Workman Compensation Application No.56 of 1996 allowing the application by awarding Rs.24,000/- to be paid by the applicant to the respondent along with the interest @ 6%.

The only contention raised on behalf of the appellant is that in the facts and circumstances of the case, more particularly when the driver has applied the break and the conductor has sustained injury, it cannot be said to be an accident within the meaning of the provisions of the Workmen Compensation Act and therefore, the respondent was not entitled to any compensation under the provisions of the Workmen Compensation Act. No other submissions have been made. It is required to be noted and it is an admitted fact that the driver all of a sudden applied the break and the conductor sustained injuries. Application of break all of a sudden and the conductor has fallen down and sustained injuries can certainly be said to be an accident. Under the circumstances, it cannot be said that the learned trial Court/ the learned Commissioner has committed an error in awarding compensation to the respondent. Under the circumstances, there is no substance in the present appeal and the same is required to be and is dismissed. No costs.

In view of dismissal of main first appeal, no order in civil application. Rule discharged.

(M.R. Shah, J.)

shekhar/-